

Marc Brainich, Bar No. 191034  
**FENNEMORE WENDEL**  
1111 Broadway, 24th Floor  
Oakland, California 94607  
Tel: (510) 834-6600 / Fax: (510) 834-1928  
[MBrainich@fennemorelaw.com](mailto:MBrainich@fennemorelaw.com)

*Pro Hac Vice*  
Cody C. Bourke (Bar No. 46370)  
**FENNEMORE CRAIG, P.C.**  
1700 Lincoln Street, Suite 2400  
Denver, CO 80203  
Tel: (303) 291-3200; Fax: (303) 291-3201

Attorneys for Defendant  
LEPRINO FOODS COMPANY

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

PATRICK McDONALD,  
Plaintiff,

v.

LEPRINO FOODS COMPANY; and DOES 1  
through 25, inclusive,  
Defendants.

Case No. 2:23-CV-00637-TLN-DB

Originally Filed in San Joaquin County  
Superior Court, Case No. STK-CV-UPI-  
2022-0007510

**JOINT STIPULATION TO CONTINUE  
PRETRIAL DEADLINES: ORDER  
THEREON**

Action Filed: August 25, 2022  
Trial Date: None

The parties to this action, Plaintiff PATRICK MCDONALD (“Plaintiff”) and Defendant LEPRINO FOODS COMPANY (“Defendant”), by and through their respective undersigned counsel, hereby state the following and agree to enter into the following stipulation:

1. Under the Initial Pretrial Scheduling Order, the current deadline for the parties to complete all discovery, except expert discovery, is December 8, 2023. The deadline to serve expert witness disclosures is February 6, 2024, and the expert discovery cut-off is June 5, 2024.
2. There is no trial date scheduled for the above-captioned matter.

3. The parties are diligently conducting discovery in this case, including the exchange of Initial Disclosures, waiting for subpoena documents for Plaintiff's medical providers and previous employers, serving and responding to sets of written discovery, and scheduling depositions.
4. Specifically, Defendant is working on scheduling an independent medical examination ("IME") of Plaintiff; however, Plaintiff now resides in the Seattle, Washington area. Defendant is working on locating an expert in the Seattle, Washington area or, alternatively, the parties are coordinating to arrange for Plaintiff to travel to a mutually agreeable location in California.
5. Defendant also propounded a set of written discovery on Plaintiff on October 2, 2023. Defendant allowed Plaintiff an extension of time to provide responses and documents until December 1, 2023—one week prior to the fact discovery cut-off.
6. Defendant plans to coordinate Plaintiff's deposition following the IME and Plaintiff's responses to written discovery. Moreover, Defendant is waiting for responses to subpoenas and written discovery to determine whether to depose other potential fact witnesses, such as Plaintiff's medical providers and/or previous employers.
7. Based on the deposition of Defendant's Plant Safety Lead, Plaintiff has requested two additional depositions of two of Defendant's employees. The parties are working on scheduling these depositions around the Thanksgiving holiday and, depending on the testimony from these employees, Plaintiff may request additional depositions.
8. Moreover, counsel for Defendant changed firms in July 2023, which necessarily caused administrative delays in transferring files of the client and coordinating and scheduling discovery. *See* Dkt. #11, Substitution of Counsel filed August 10, 2023.
9. In addition, the parties have agreed to opt-in to the Court's Voluntary Dispute Resolution Program ("VDRP") after the completion of Plaintiff's IME and deposition. In order to provide the parties sufficient time to complete their investigation, discovery, and trial preparation, and in turn have sufficient time to engage meaningfully in VDRP before incurring expert substantial expert costs and attorneys' fees.

10. For the aforementioned reasons, good cause exists and no party will be prejudiced by the request herein as it is stipulated.

11. Accordingly, Plaintiff and Defendant jointly request that the pretrial deadlines for fact and expert discovery be continued as set forth below:

**IT IS HEREBY AGREED, STIPULATED, AND REQUESTED THAT:**

1. The current fact discovery cutoff date be extended from December 8, 2023, up to and including April 8, 2024.
2. The current deadline to serve expert disclosures and expert reports be extended from February 6, 2024, up to and including June 6, 2024.
3. The current deadline to serve rebuttal expert disclosures and expert reports be extended from March 7, 2024, up to and including July 7, 2024.
4. The current deadline to file a Trial Readiness Notice, if no dispositive motions are filed, be extended from April 8, 2024 to August 8, 2024.

Dated: November 21, 2023.

ZINK & LENZI

By: /s/ Albert J. Lenzi

Albert J. Lenzi  
Attorney for Plaintiff  
Patrick McDonald

Dated: November 21, 2023.

FENNEMORE WENDEL

By: /s/ Marc Brainich

Marc Brainich  
Attorney for Defendant  
Leprino Foods Company

**ORDER**

Pursuant to the parties' Joint Stipulation, and good cause appearing, the Court hereby orders as follows:

1. The current fact discovery cutoff date be extended from December 8, 2023, up to and including April 8, 2024.

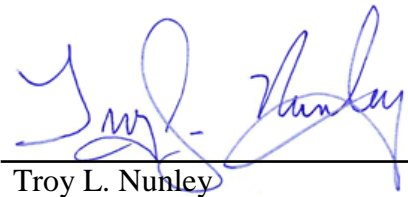
2. The current deadline to serve expert disclosures and expert reports be extended from February 6, 2024, up to and including June 6, 2024.

3. The current deadline to serve rebuttal expert disclosures and expert reports be extended from March 7, 2024, up to and including **July 8, 2024**.

4. The current deadline to file a Trial Readiness Notice, if no dispositive motions are filed, be extended from April 8, 2024 to August 8, 2024.

**IT IS SO ORDERED.**

DATED: November 21, 2023



Troy L. Nunley  
United States District Judge